

## RIGHT TO EDUCATION: AN OVERVIEW

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### ABSTRACT

*I start with the proposition: A normal middle class family would never send their children to a government school, but would manage all odds to secure their seat in a government college. Why this duality of standards when the service provider is the same. This is a reality! The base of the pyramid and the future of the nation depends on the primary education (as it includes majority student population,) as we move up the ladder, it tapers, i.e. very less number of students graduate towards higher education. Mahatma Gandhi had said that the basic primary education should be free and compulsory for all, but if anyone chooses to move up the ladder, the individual should take the sole burden of the finances. Right to Education Act, 2009 (Article 21 A) was implemented in order to ensure free and compulsory education for 6-14 years of age of children. This act has been added as a part of Right to Life (Article 21,) because it is argued to live a quality life, education is the first step towards the end. But the policy and its implementation are far from reality. According to CRY Report 2013, "Learning Blocks" following startling figures appeared:*

*11% schools did not have toilets*

*18% schools had separate toilets for girls*

*34% school toilets were in bad or unusable condition*

*20% schools did not have safe drinking water*

*23% schools did not have a blackboard*

*50% schools do not have water available near toilets*

*60% schools do not have a boundary wall, or it is damaged or under construction*

*74% schools do not have a library*

*63% schools do not have a playground*

*Nearly 55% schools have electricity available for less than 4 hours*

*1 in 40 primary schools are conducted in open or tents.*

*In this background, the paper would like to assess the path already traveled from 2009 & the path still to be taken!*

**Keywords:** *Education, Right, Students, schools, learning, knowledge*

### INTRODUCTION

Every civilization, society has validated the power of Education as a tool sustains, thrive and survive as a culture. It is very essential that the knowledge and skills are passed on to younger generations by the older generations, so that it smoothly passes on to every generation. Education equips us to realize

ourselves, visualize dreams and then set forth to accomplish them. Therefore, education is a way to prepare citizens lives a meaningful life, empower them through socio-economic mobility, reduce the inequalities both social and economic and in return trigger both the simultaneous concepts of growth and development. There is a paradigm shift to be analyzed from education as a path to knowledge and education as a cost recovery system. Education is the single most powerful tool which shapes the character, personality of an individual, thereby shaping the personality, character of the country in return. While analyzing the reasons which are kept in mind, while demarcating the world into developed, developing and underdeveloped, education- equity, accessibility and quality emerges as the single most crucial factor which helps any nation to sprint across to the status of a developed nation. An educated citizenry is an asset to the nation, as they contribute in a wholesome manner to the society.

United Nations recognized Right to Education as a fundamental right which should be accessible to each human being on earth & as UN was establishing this fact, India was vehemently thrusting to implement Right to Education as a Fundamental Right. National Policy of Education of 1968, the first official Government of India's document which reiterated government's commitment to provide elementary education and this was further incorporated in the National Policy of Education in 1986. Ultimately when NPE 1986 was reviewed in 1990, it was recommended that Right to Education be incorporated as Fundamental Right. This served as the base on which National Policy of Education of 1992 was built upon. By the same time, India became a signatory to United Nation Convention on the Rights of the Child in 1992 and India started to work upon the legislation to introduce Right to Education as a Fundamental Right.

Mohini Jain vs. State of Karnataka (1992) the Supreme Court ruled that the RTE is implicit in and flows directly from the right to life under Article 21, thus virtually elevating the RTE to the status of a fundamental right.<sup>1</sup> It was elaborated and made clearer in Unni Krishnan vs. State of Andhra Pradesh & Others (1993) when the Supreme Court ruled as follows: "The citizens of this country have a fundamental right to education. The said right flows from Article 21. This right is, however, not an absolute right. Its content and parameters have to be determined in the light of Articles 45 and 41. In other words every child/citizen of this country has a right to free education until he completes the age of fourteen years. Thereafter his right to education is subject to the limits of economic capacity and development of the State."<sup>2</sup>

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<sup>1</sup>[www.nuepa.org/New/download/NEP2016/ReportNEP.pdf](http://www.nuepa.org/New/download/NEP2016/ReportNEP.pdf)

<sup>2</sup><https://indiankanoon.org/doc/1775396>

## **RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009**

The RTE initially was included as a non-justiciable Right within the ambit of Directive Principles of State Policy in the Constitution of India. As originally adopted by the Constituent Assembly in November, 1949, Article 45 stated that: “The State shall endeavor to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.<sup>3</sup>” Further, Article 41 mandated the State, among other things, to make effective provision for securing the right to education “within the limits of its economic capacity and development.<sup>4</sup>”

The RTE Act, inter-alia provides for the following:

- (i) Right of children to free and compulsory education till completion of elementary education in a neighborhood school.
- (ii) It clarifies that ‘compulsory education’ means obligation of the appropriate government to provide free elementary education and ensure compulsory admission, attendance and completion of elementary education to every child in the six to fourteen age group. ‘Free’ means that no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education.
- (iii) It makes provisions for a non-admitted child to be admitted to an age appropriate class.
- (iv) It specifies the duties and responsibilities of appropriate Governments, local authority and parents in providing free and compulsory education, and sharing of financial and other responsibilities between the Central and State Governments.
- (v) It lays down the norms and standards relating inter alia to Pupil Teacher Ratios (PTRs), buildings and infrastructure, school-working days, teacher-working hours.

It provides for rational deployment of teachers by ensuring that the specified pupil teacher ratio is maintained for each school, rather than just as an average for the State or District or Block, thus ensuring that there is no urban-rural imbalance in teacher postings. It also provides for prohibition of deployment of teachers for non-educational work, other than decennial census, elections to local authority, state legislatures and parliament, and disaster relief.

- (vii) It provides for appointment of appropriately trained teachers, i.e. teachers with the requisite entry and academic qualifications.

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<sup>3</sup><https://indiankanoon.org/doc/1791268>

<sup>4</sup>[www.jstor.org/stable/10.2307/43953811](http://www.jstor.org/stable/10.2307/43953811)

(viii) It prohibits (a) physical punishment and mental harassment; (b) screening procedures for admission of children; (c) capitation fee; (d) private tuition by teachers and (e) running of schools without recognition.

(ix) It provides for development of curriculum in consonance with the values enshrined in the Constitution, and which would ensure the all-round development of the child, building on the child's knowledge, potentiality and talent and making the child free of fear, trauma and anxiety through a system of child-friendly and child-centered learning<sup>5</sup>

Indian visionaries always dreamt of providing quality education to all its children, irrespective of any differentiation, and now with Right to Education, 2009, for the first time, it was introduced as a separate chapter in order to make sure that this dream is implemented. As soon as anything is guaranteed by the State as a "Right" it becomes a "compulsion" for the state to take adequate steps to ensure the same equally for all. Initially, since it was enforceable, the other parties were blamed for the same, like the students themselves, their parents, extended families or the society at large. Section 8(c) ensures that the children belonging to weaker sections or disadvantaged groups are not discriminated against and prevented from pursuing and complementary education on any grounds.<sup>6</sup> This shift in itself is a huge challenge to cope with, because initially the system concentrated on selection from day one, even before the child is formally a part of school, and judged and labelled the child as slow, failure, even when the education providers chose to ignore the psychology that any child shall learn and develop in an environment, which would ensure quality education to them, thereby destroying the very fabric of 'equitable' quality.

However, this framework also reminds us that the concept of 'merit' which is often decided by entrance tests gives result in the veil of social advantage. The learners hailing from so-called "disadvantaged backgrounds" need more attention and support- financially, academically & psychologically from the system which should promote 'equitable quality' and not preferential or differential quality, as it would make the impoverished all the more impoverished. It is physically impossible to test the learners on the basis of equal past knowledge or skills at any grade level. It is actually collaborative and non-threatening modes of assessment which lead to a qualitative learning of all.

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<sup>5</sup> [www.mhrd.gov.in](http://www.mhrd.gov.in)> School Education

<sup>6</sup> ibid

Classrooms should be learning centres where:

The child	The teacher
<ul style="list-style-type: none"> <li>✓ gains confidence in facing problematic situations,</li> <li>✓ undertakes tasks without anyhesitation,</li> <li>✓ interacts freely, meaningfully and joyfully with his/her classmates, teachers and teachinglearning materials,</li> <li>✓ interacts in groups and makes use of other resources for expanding his/her knowledge,</li> <li>✓ compares events, things, facts and findings and arrives at logical conclusions,</li> <li>✓ assesses his/her own progress in their work and</li> <li>✓ identifies errors and rectifies them with the helpof peers, teachers and parents</li> </ul>	<ul style="list-style-type: none"> <li>✓ designs and implements activities taking into consideration the individual differences ofeach child,</li> <li>✓ formulates innovative techniques and practices for the class,</li> <li>✓ facilitates activities during classroom interactions as one among the group, without anyinhibition,</li> <li>✓ sets tasks and gives instructions in accordance with the learning capability of children,</li> <li>✓ uses local resources for designing class activities, and reference materials for updating her knowledge,</li> <li>✓ elicits regular feedback and maintains recorded observations to improve her teaching,</li> <li>✓ takes up classroom problems as part of action research,</li> <li>✓ conducts academic discussions with her colleagues,</li> <li>✓ takes part in collective planning with the School Resource Group and</li> <li>✓ Interacts with the community.</li> </ul>

## LOOPHOLES IN THE IMPLEMENTATION OF RTE

- 1) Even though the Act enumerate s minimum qualifications for a teacher, but it is quite difficult to work upon the qualitative qualification unless, there are more institutes for teacher education, foundations/principles, content and methodologies for in-class development and beyond

- 2) The act should also focus on parallel structures like the SCERT, SIEMAT, DIET, as it would highly professionalize teaching.
- 3) With the no-detention policy, it is hard to gauge the learning outcomes of any learner, and thus defeats the concept of both mastery learning and universal learning too
- 4) The act does not talk about maintaining quality and adherence to minimum norms, thereby granting or cancelling recognition.
- 5) The shortage of finances for appointment of teachers, provision of infrastructure, basic building, which does not leak in monsoons, provides protection against the harsh sun in summers and chilly winds in winters, basic sanitation facilities through separate and clean toilets, clean drinking water, blackboard, multiple use open space and likewise.
- 6) In order to make RTE effective, it is very important to establish a sound Grievance Redressal Mechanism, which includes registering, investigating thoroughly and replying within a strict time frame.
- 7) No provision of any type of education is provided for children from 3-6 years of age. So, the pre-school education should be included in the main schooling framework.
- 8) Experts have always argued that failure or success of any theme should always be considered in a particular context. There is a dire need of a parallel structure both creation and strengthening like the Sarva Shiksha Abhiyaan. Why is the role of Teacher just restricted to provision of service and not actually the one who creates an environment, where the students themselves are empowered enough to construct knowledge and learning. The whole focus is on the teacher and not the system. Even today 90% of education of teachers is still in the hands of private institutes, there is a huge debate why is this not being taken as a priority by the state.
- 9) The poor outcomes of Government schools is a result of overburdened staff with non-academic activities, admissions do take place, but learners drop out, books which are to be provided, arrive either when the session is halfway or about to be over, student absenteeism, lack of infrastructure like classrooms, chair, desks, blackboard, toilet, drinking water, the funds are released towards yearend, vacancies in position. So, the basic question how can we question the delivery of quality service.
- 10) The students are facing multiple issues, like for instance, many learners have to be convinced hard to come to school, in that case we need a strong system of motivation and encouragement, to ensure they continue, the emphasis of National Curriculum Framework, 2005 on arts and poetry is altogether sidelined, students should be taught in a language they understand and communicate and not the third language, which makes the process more complex. They can learn or experiment with new languages in higher grades.
- 11) Then the major issue lies in the fact that Education is within the ambit of Ministry of HRD and early childhood education falls under Ministry of Women and Child Development. So, the lack of coordination and difference in orientation is major road block. A longitudinal study by Centre for Early Childhood Education & Development (CECED), Ambedkar University,

Delhi has found that 75% of children in pre-schooling age are going to some form of pre-schooling in the country with 55% in private facilities. “0-6 is the age where most of the brain development takes place so appropriate learning ways and concepts are critical in making child ready for school. But unfortunately in absence of a framework, referential curriculum and pedagogic standardization is missing,” says Dr Venita Kaul, director CECED.<sup>7</sup> Various activists feel that the RTE Act should be reworked for the age group of 0-6 years and there should be provisions for the age bracket 14-18 too. The withdrawal of girl students from schools have varied reasons, and therefore the grass-root activists believe that a continuous education, definitely based on merit shall serve to fulfill the socio-economic objectives w.r.t. development.

### **THE WAY AHEAD!**

It is not an exaggeration that the education system in India is not able to meet the objectives, for which it aims to! Various researches have shown that the learning levels of school students are on a decline. The issues of teacher absenteeism and teacher vacancies continue to haunt the government schools. Dropout rates continue to stay high. There is nepotism, corruption and bribery in transfers and appointments of teachers and also in approvals and recognition of institutes. Rigging of the examination system haunts many. Approximately 65% of the population of India is less than 35 years of age. This population can be resource of we revamp the education sector of our country. & if we don't do so, it will be a huge blow to the country. Education acts as a great leveler, is the only route sustainable enough to tackle the disparities. Following suggestions can be made to enhance the effectiveness of RTE:

- 1) The age group should be broadened from both the sides, i.e. it should be from 3-17 years of age. Researches have displayed that the child's brain develops the most till 5 years of age, and that is the stage when a learner should be exposed to quality education and w.r.t. other side of the age bracket, the state should be involved in introduction of technical expertise courses in IT, Media, Entertainment, Telecommunication, Mobile communication, Automobile, Construction, Food Processing as was announced by Mr. Kapil Sibal on February 08, 2012
- 2) Common School System was effective in quality education in the past but today Common School System of USA should be combined with Model School System, which is modelled on the basis of needs and demands of the society. Public Private Partnership shall be a successful model, on Build-Operate Transfer basis.
- 3) Stakeholders like parents, societies, and panchayat should play an active role, because education of a child is a two-way process and cannot yield desired results if initiatives are one way. All the stakeholders need to be sensitized.

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<sup>7</sup><http://www.aud.ac.in/academic/centres/ceced>

- 4) The provision “no child shall No child shall be held back, expelled, or required to pass a board examination until completion of elementary education” should be amended in the Right of Children to Free and Compulsory Education Act, 2009, as it will defeat the whole concept of learning.
- 5) Frequent Parent- Teacher interactions should be promoted.
- 6) The quality of Mid-Day Meal should be constantly scrutinized.
- 7) Infrastructure like classroom, furniture, toilets and clean drinking water should be tackled on priority basis.
- 8) Teacher Education should have increased budget allocation,
- 9) Though it is the primary duty of the state to provide education for children but other non-state actors, civil society organizations should extend their support.

## **CONCLUSION**

The Right of Children to Free and Compulsory Education Act, 2009 was implemented with an objective to ensure that the children of India had access to a child-friendly, qualitative and child-centered scheme of education. It provided a specific time frame for implementation of various provisions, which included neighborhood schools, infrastructure, pupil- teacher ratio and various facilities as per the mandate of the Act. As it was enforce in April 2010, two sets of deadlines have already passed and not even a single state has been able to implement the RTE Act in totality. Just 8% of the schools, all over India have been able to comply with the 10 indicators of the RTE Act. All the states along with the Union Territories have notified the act. 32 states have appointed monitoring agencies to ensure the implementation of the RTE act. The budget on Education has significantly but it still has to reach the limit required for implementation of the same. Policies like no corporal punishment, no private tuitions, no board exams, banning capitation fees and the screening procedure and no-detention policy, have been notified and implemented, as Child centered initiatives. Reforms have been initiated like Teacher Eligibility Tests, changes in teacher recruitment qualifications and likewise requirements, teacher training system etc.

It is criticized by many that Indian leadership has yet not been able to tackle the menace of literacy even after approximately 70 years of independence, thereby neglecting this primary area of Human Resource Development for so long. Today with the concept of Welfare State, it is the primary obligation of the state to provide free health services and free education to all its citizens without any reason whatsoever of discrimination, as it is a mandatory pre condition for Right to Life. India became a proud country, one amongst 135 countries to guarantee its citizens the Right to Education as a Fundamental Right, giving it an equal footing with the Right to Life. The RTE act, along with the suggestions can actually prove to be a milestone for a long term goal of developing a strong base of Education for the future generations of our country.

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